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WEST VIRGINIA LEGISLATURE 102 OCT 22 A 9:20
Legislative Rule-Making Review Committee

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October 21, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: J. Michael Adkins
Consolidated Public Retirement Board
Capitol Complex
Building 5, Room 1000

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Teachers Defined Benefit Plan, 162CSR4**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Consolidated Public Retirement Board

Subject: Teachers Defined Benefit Plan, 162CSR4

PERTINENT DATES

Filed for public comment: May 2, 2002

Public comment period ended: June 14, 2002

Filed following public comment period: July 23, 2002

Filed LRMRC: July 23, 2002

Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 6 relates to retirement. It has been amended by adding a new Subsection 6.4 which states that a member who has retired on disability is ineligible to return to service in a substitute capacity while continuing to receive disability retirement benefits.

Section 8 relating to loan repayment is new. It provides for repayment of a loan upon the retirement of the member, including retirement for disability or withdrawal prior to retirement. Any unpaid loan balance, including accrued interest, must be repaid in full by the member. If not paid, the amount is to be deducted in a lump sum from the member's refund of accumulated contributions or through the reduction of the member's monthly benefit. If the member dies prior to repayment, the loan amount due is to be deducted in a lump sum, from either the refund benefit payable to the refund benefit beneficiary or the annuity death benefit

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otherwise payable to the survivor beneficiary, whichever is applicable.

AUTHORITY

Statutory authority: W.Va. Code, §5-10D-1, which provides, in part, as follows:

...The consolidated public retirement board may propose for promulgation all rules necessary to effectuate its powers, duties and responsibilities pursuant to article three, chapter twenty-nine-a of this code: *Provided*, That the board may adopt any or all of the rules, previously promulgated, of a retirement system which it administers...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

- V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

- VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

- VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

- VIII. OTHER

Counsel has technical modifications to suggest.